

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MILTON H. FRIED, JR., and
RICHARD EVANS, for themselves
and all others similarly situated

Plaintiffs,

v.

SENSIA SALON, INC., etc., et al.,

Defendants.

Case No. 4:13-cv-00312

PLAINTIFFS' MOTION FOR DISMISSAL
OF DEFENDANT SENSIA SALON, INC., ONLY

Plaintiffs hereby move the Court for dismissal of Defendant Sensia Salon, Inc., only. The motion is made pursuant to Federal Rule of Civil Procedure 41(a)(2).

The following facts are pertinent to the motion:

1. Plaintiffs are Milton H. Fried, Jr., and Richard Evans; defendants are Sensia Salon, Inc., Textmunications, Inc., and Air2Web, a division of Velti, Inc..
2. On February 7, 2013, plaintiffs sued defendants.

3. Defendants each have been served with process. Defendants have answered Plaintiffs' Complaint excepting Defendant Textmunications, Inc., who is in default.

4. This case is brought as a class action. However, the Court has not certified a Class at this time.

5. A receiver has not been appointed in this case.

6. Plaintiff has not previously dismissed any federal- or state-court suit based on or including the same claims as those presented in this case.

7. This dismissal is with prejudice to refiling.

8. By notice entered November 7, 2013, this action was stayed pursuant to Defendant Velti's bankruptcy petition.

9. By order entered November 27, 2013, the Court referred the dialer issue in this litigation to the FCC, where it remains pending.

10. By agreement effective on or about August 14, 2014, Plaintiffs settled this dispute with Defendant Sensia Salon, Inc., and agreed, in part, to ask the Court to dismiss this action against Sensia Salon, Inc.

Conclusion

For these reasons, Plaintiffs asks the Court to dismiss the suit with prejudice to refiling as to Defendant Sensia Salon, Inc., only.

Dated: September 11, 2014

Respectfully submitted,

THE HAYES LAW FIRM, PC

Charles Clinton Hunter

By _____

DEBRA BREWER HAYES

Fed. Id. 7443

CHARLES CLINTON HUNTER

Fed. Id. 876012

THE HAYES LAW FIRM, PC

700 Rockmead, Suite 210

Kingwood, TX 77339

281-815-4963 Tel

832-575-4759 Fax

281-815-4969 Direct

dhayes@dhayeslaw.com

chunter@rbfirm.net

ATTORNEYS FOR PLAINTIFFS

MILTON H. FRIED, JR. AND RICHARD
EVANS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed via the Court's CM/ECF electronic filing system which will send an electronic notice to all interested parties entitled to receive notice.

Charles Clinton Hunter

Charles Clinton Hunter
chunter@dhayeslaw.com